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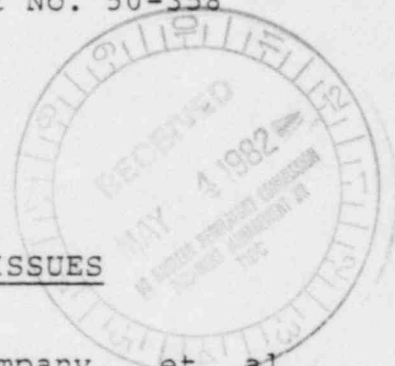
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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of)
)
The Cincinnati Gas & Electric) Docket No. 50-358
Company, et al.)
)
(Wm. H. Zimmer Nuclear Power)
Station))

APPLICANTS' REPLY FINDINGS
RELATING TO EMERGENCY PLANNING ISSUES



The Cincinnati Gas & Electric Company, et al., Applicants in the captioned proceeding, in accordance with 10 C.F.R. §2.754, hereby submit the attached consolidated reply findings with respect to emergency planning issues in response to "Proposed Findings of Fact and Conclusions of Law Submitted by Lead Intervenor ZAC-ZACK Pertaining to Issues of the Sufficiency of Off-Site State and Local Emergency Response Plans and as Presented by Contentions 20X, 20-25, 4(12)" and "The City of Mentor's Proposed Findings of Fact and Conclusions of Law Relating to Emergency Planning Issues in the form of an Initial Decision."

The reply findings are in the form of insertions to "Applicants' Proposed Findings of Fact and Conclusions of Law Relating to Emergency Planning Issues in the Form of an Initial Decision," dated April 2, 1982 ("Applicants'

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Proposed Findings"). Applicants have reviewed "NRC Staff's Proposed Supplementary Findings of Fact, Conclusions of Law, and Order in the Form of an Initial Decision," dated April 23, 1982, and have concluded that no reply to it is necessary; a single clarification is noted in paragraph 231A, infra.

Many of the intervenors' proposed findings of fact have been anticipated in Applicant's Proposed Findings and no further reply is necessary. It is noted that many of the intervenors' proposed findings are not material to the issues before this Board. Thus, this Board should adopt Applicant's proposed findings of fact, as amended herein, and its conclusions of law and reject those of the intervenors as unsupported by the evidence of record or irrelevant to its decision. Moreover, pursuant to 10 C.F.R. §2.754(b), the Board should strike those contentions for which intervenors have failed to submit proposed findings of fact and conclusions of law. The use of topical headings used in the Applicants' Proposed Findings is continued herein.

Introduction

On page 6 of Applicants' Proposed Findings, add Paragraph 171A following Paragraph 171:

171A. Intervenors have failed to submit proposed findings of fact and conclusions of law relating certain contentions and portions of others, e.g., Nos. 20(b)(4), 20(b)(7), (8), 20(f)(1), 20(g)(1), 20(h)(1), 21(b)(2),

21(c)(2) and 24(1)-(9). Pursuant to 10 C.F.R. §2.754(b), the Board finds that intervenors are in default and strikes the contentions for which no findings have been submitted. Consumers Power Company (Midland Plant, Units 1 and 2), ALAB-123, 6 AEC 331, 332-33 (1973).

Extension of the Plume EPZ to Brown County

On page 21 of Applicants' Proposed Findings, add Paragraph 217A following Paragraph 217:

217A. Intervenor ZAC/ZACK in its Proposed Findings at Paragraph 12 argues that "if the [Clermont] [C]ounty government can not provide adequately for the relocation of its citizens, the county immediately adjacent to the involved county shall plan to provide for relocation centers for individuals coming from the county of the plant location" As a result, ZAC/ZACK asserts that "[c]oordination . . . between Brown and Clermont Counties [is required] for disaster service-related matters." This averment is simply incorrect. Nothing in the State plan or the testimony of its planners suggests that an adjacent county must plan to provide relocation centers for its neighbor. The other fatal error is ZAC/ZACK's unproved hypothesis that the established relocation centers are not adequate to process and accept the evacuating citizens of Clermont County. There is no probative evidence to support this; certainly ZAC/ZACK points to none. The mere fact that some residents of the plume EPZ may traverse Brown County roads certainly does not call into question the adequacy of the established

relocation centers. Neither does the fact that potential sites for relocation centers exist in Brown County, as indeed such potential sites, e.g., schools, exist in all counties. As ZAC/ZACK admits in its Proposed Finding 16, "Brown County does not have any emergency response plan and is unprepared to cope with the influx of Clermont evacuees" Thus, there appear to be many practical barriers to the transformation of potential sites into relocation centers in Brown County and no corresponding reasons to tamper with established planning (see, e.g., Tr. 7902).

Decontamination Monitoring

On page 24 of Applicants' Proposed Findings, add Paragraph 231A following Paragraph 231:

231A. In Proposed Finding No. 211 and Conclusion of Law No. 3, the Staff has apparently inadvertently overstated the provision for monitoring evacuees as set forth in NUREG-0654. This document provides only that the relocation center have a capability to monitor residents and transients within about a twelve-hour period of their arrival at a relocation center.

State of Indiana Plans for the Ingestion Pathway

On page 33 of Applicants' Proposed Findings, add Paragraphs 273A and B following Paragraph 273:

273A. In Proposed Findings 17-19, the City of Mentor has attempted to change the thrust of its Contention 35 from an assertion that no plan for Indiana exists to one that seemingly admits the existence of such a plan, but, for

unspecified reasons, asserts that it is inadequate. To allow the City to thus change its contention would be contrary to the regulations and totally unfair to the other parties who attempted to meet with testimony the original contention as admitted by this Licensing Board. There is no warrant for such a change in the contention; the Indiana Plan has been in existence for some time and available to the City by request or on discovery. In any event, there is no testimony of record that the provisions of the extant Indiana plan are in any way inadequate or incapable of implementation.

273B. The Board regards the assertion that it cannot take action until the State of Indiana plan has been physically lodged in the record of this proceeding as specious; no citation for this proposition has been given by the City of Mentor. The only requirement is that such plans be submitted to the Staff and FEMA prior to the issuance of an operating license (10 C.F.R. §50.33). As discussed in other sections, the Board is confident that the NRC Staff and FEMA will carry out their obligations for emergency planning with regard to matters not in contest before the Licensing Board and the NRC Staff will assure followup in conjunction with FEMA within the scope of contested issues.

State of Ohio and Commonwealth of Kentucky
Plans for the Ingestion Pathway

On page 39 of Applicants' Proposed Findings, add Paragraphs 305A, B and C following Paragraph 305:

305A. Intervenor ZAC/ZACK in its Proposed Findings at Paragraph 134 incorrectly suggest that there has been absolutely no planning for goat's milk monitoring and interdiction, if necessary, in Clermont County. Such assertion is totally false. Initially, as even the intervenor recognizes, the number of goats in the county is small. The intervenor admits in its Proposed Findings that there are only "several goats present." Common sense dictates that the distribution and consumption of goats' milk would also be small.

305B. In any event, the Ohio State plan at Section IV, "Emergency Planning Guidance for the 50 Mile Ingestion Pathways in The State of Ohio" (Board Exh. 1 at IV-2), specifically states in paragraph 2.A.4 that the Ohio Department of Health has the responsibility for "the imposition of quarantines . . . pertaining to the sale, transfer and transport of dairy cattle and goats [emphasis supplied]." This particular section deals with the Department of Health's detailed plans for sampling, monitoring, testing and furnishing advisories for food and milk products. There is no limitation with regard to the discussion of milk products which would exclude goat's milk from these planning activities.

305C. It is recognized that the commencement of protective actions for the ingestion EPZ necessary to prevent human consumption of possibly contaminated substances can be phased in over a longer time span than

those actions necessary to protect individuals within the plume EPZ. Contamination of goat's milk requires the continuing pasturing of goats, the buildup of iodine within their milk and then the distribution of such goat's milk to consumers. Advisories would assure that individuals did not drink goat's milk or any type of milk either on or off the farm until such milk had been tested. Contaminated food products, including goat's milk, would be kept from consumers and destroyed, if necessary. The emergency plans provide assurance that these actions can be carried out.

On page 40 of Applicants' Proposed Findings, add Paragraphs 307A, B, C and D following Paragraph 307:

307A. In Proposed Findings 26 through 30, the City of Mentor discusses emergency planning related to water supplies. The discussion distorts the testimony of record and incorrectly sets forth a picture which does not fairly represent the planning effort.

307B. In Proposed Finding 26, it is asserted that contamination of water supplies by either a release into the air or into the Ohio River could be immediate, citing Tr. 7883. At that transcript page, the witness states that contamination of the water would occur immediately only "right outside the release" The witness added that an airborne plume might dissipate and never contaminate the water. Thus, it is important to consider the location of the consumptive water sources in relation to the plant. The distance of the municipal water supplies downstream from the

Zimmer Station assures sufficient time to isolate them prior to any possible contamination reaching them either by an airborne or water pathway. For example, the Newport Water Works, from which residents of the City of Mentor may receive supplementary water supplies, has direct communications with the Zimmer Station (Appl. Exh. 13 at Appendix D; Appl. Exh. 15 at 127). Reservoirs and other public water supplies in Kentucky within a 50 mile radius of the Zimmer Station are identified in Table F-4 of Board Exh. 3. Of course, contamination of groundwater supplies, e.g., an underground aquifer, would be a slow developing, longer-term problem and would not call for immediate action.

307C. The statement in the City of Mentor's Proposed Finding 27 that the State of Kentucky has no water monitoring equipment, only air monitoring equipment, is not supported by the citation. At Tr. 7880, in response to a question about water monitoring, the witness actually stated that he was not aware of "an installed system by the State of water monitoring [emphasis supplied]." In fact, the Kentucky Radiological Emergency Plan, Board Exh. 3 at Appendix D-5-2, states that the field radiological center would have water samplers. The City of Mentor argues that because it may take some time to assemble a monitoring team, the plan is rendered unacceptable. However, knowing the release parameters and other conditions, the possibility of contaminated water supplies can be determined on a conservative basis. Until monitoring could demonstrate that

water supplies were safe, public supplies would be cut off and the public would be warned not to use possibly affected private supplies. Taking into account the past experience of the Commonwealth of Kentucky in the monitoring of private wells and cisterns during non-radiological emergencies and the protective actions outlined in the Kentucky Radiological Emergency Plan, the Board believes that adequate consideration has been given to water monitoring in the Commonwealth of Kentucky.

307D. Most of the testimony cited by the City of Mentor in support of its contentions relating to water supply came from the witnesses sponsored by FEMA. Reading the entire testimony in context, it appears that the FEMA representatives did not have specific familiarity with the details of the Commonwealth of Kentucky's implementation of water monitoring. However, the Board heard testimony from the representatives of the Commonwealth who are charged with this responsibility under the plan and is impressed with their planning and previous record in fulfilling the responsibility to supply uncontaminated water to the citizens of the Commonwealth. The Board has weighed the record as a whole and has discounted the testimony of the FEMA witnesses accordingly in finding that adequate measures can be taken with regard to protection of water supplies in Kentucky.

Public Information

On page 45 of Applicants' Proposed Findings, add Paragraphs 329A and 329B following Paragraph 329:

329A. Paragraph 124 of ZAC/ZACK's Proposed Findings contains a restatement of its Contention 23(3) relating to the readability of the document titled "Circle of Safety." However, at the hearing, counsel for ZAC/ZACK stated that that contention is "stricken" and "withdrawn" (Tr. 5820). The Licensing Board therefore need not give further consideration to the proposed findings related to this contention (and not related to Dr. Fankhauser's Contention 4(12), i.e., Nos. 126, 127 and 128).

329B. In any event, the Licensing Board believes that the readability level at which the public information documents, including "Circle of Safety" and the phone book insert, are written is appropriate. Further efforts at reducing the readability level could adversely affect the message content (Appl. Exh. 15 at 105). There are key words utilized for which there are no adequate substitutes at a lower readability level (id.). The Applicants' uncontradicted testimony is that the "Circle of Safety" should be readable by a large segment of the population, with the telephone book insert readable by even a larger segment (Appl. Exh. 15 at 105-06). The Board finds that the public information program of the Applicants is appropriate for the population within the plume EPZ.

Evacuation Time Estimates

On page 46 of Applicant's Proposed Findings, add Paragraph 333A following Paragraph 333:

333A. In Proposed Finding at Paragraph 122, ZAC/ZACK relies on only a single incident to assert that the population of the plume EPZ would exercise "poor judgment" during an emergency at the Zimmer Station. There has been no evidence that this one alleged incident of "poor judgment" involving a flood condition was other than an isolated event involving a very few individuals. The testimony of record, based on personal observations of a large number of disasters, establishes that the public will follow directions when instructed to take protective actions (See, e.g., Testimony of Richard W. Meyer, Palmer T. Frost, and John C. Heard, Jr. of the Federal Emergency Management Agency and Bernard E. Williams, of the Department of Transportation; Federal Highway Administration, following Tr. 6982, at 68-69, see also Paragraph 364, infra). The Board has thus concluded that the population of the plume EPZ will follow instructions regarding protective actions in the event of a Zimmer Station-related emergency.

Communications and Notification

On page 81 of Applicants' Proposed Findings, add Paragraphs 496A, B, C and D following Paragraph 496:

496A. In Proposed Finding 22, the City of Mentor asserts that "[t]here is no notification process for the Mayor of Mentor or any other city public official in the event of a radiological accident at the Zimmer Nuclear Power

Station." The significance of this statement is unspecified. The local plans identify which officials are needed to promptly implement the emergency planning for the counties in Kentucky within the plume EPZ. There is no assertion that absent notification of the Mayor of the City of Mentor or his delegate, the emergency plans cannot be successfully implemented. There is some testimony in the record that if an official of the City of Mentor (or any other local official) were notified, he could order the evacuation of the residents within a particular political subdivision even though the cognizant county or State officials had not decided to do so. However, there is no planning requirement contained in NUREG-0654 that each local official in every political entity within the plume EPZ be notified. The City of Mentor has a population of approximately 250 (Tr. 4819). There has been no showing that the Mayor of the City of Mentor has any special qualifications or training which would enable him to protect the interests of the citizens of the City of Mentor better than the officials designated in the plans and trained in accordance with plan requirements.

496B. The Board believes that even if it could require that special provisions be made to notify the Mayor of the City of Mentor (and thus every elected official in the plume EPZ in Kentucky), this would lead to the diffusion of authority and create severe confusion and difficulty in the

implementation of the emergency plans, contrary to the intent of NUREG-0654. It will not do so.

496C. Moreover, the City of Mentor has mischaracterized the testimony and taken it out of context. At Tr. 7960, the witness stated that "there's no special notification process for the Mayor of Mentor . . . [emphasis supplied]." He then stated that "[a] notification would come either through the prompt warning and notification system or by commercial telephone" (Tr. 7961). It is to be noted that there is a siren located in the City of Mentor (Board Exh. 5, Appendix C-5, Table 1) and that each address within the City of Mentor would be equipped with an NOAA weather radio. There is no showing that this would not be adequate notification.

496D. Thus, even if the Mayor or other official of the City of Mentor had residual authority, the decision of the local planners not to involve city officials does not in any way render the planning inadequate.

Schools

On page 146 of Applicants' Proposed Findings, add Paragraphs 806A and B following Paragraph 806:

806A. For the proposition that school officials in the Ohio districts of the plume EPZ have failed to keep parents advised of any comprehensive planning in the event of a Zimmer Station emergency, ZAC/ZACK cites the testimony of Margaret Erby (ZAC/ZACK Proposed Findings at Paragraph 68). The Board has observed her demeanor during her testimony and

analyzed her responses to questions and, as a result, has discounted her testimony. Mrs. Erby is a founding member of ZAC (Tr. 5553). She claimed that most State and county officials were "ignorant," "apathetic," and "insincere," including individuals who testified and who the Board found to be knowledgeable, competent, and concerned with legitimate matters (Tr. 5535-37). While she knew of the existence of written school procedures in draft form when she prepared her testimony, Mrs. Erby still stated in her testimony that "I am presently unaware of the existence of any written school evacuation plans" and "I have only heard preliminary ideas occasionally thrown out orally"

(Direct Testimony of Margaret Erbe Addressing the Zimmer Area Citizens-Zimmer Area Citizens of Kentucky Contentions 21(b)(2); 21(c)(1); 21(d)(1), (2), (3), (4); 21(c)(3); 21(e)(1), (2), (3); 23(1); 24(5); 20(b)(5); 20(b)(5)(iii), (iv) and 20(c)(6), following Tr. 5534, at 2; Tr. 5538-39).

806B. The testimony which the Board relied upon was that communications with parents had generally been good and that information to parents of children who attended school within the plume EPZ would be sent prior to commencing operation of the Zimmer Station (see Paragraphs 797 and 798, supra.)

On page 146 of Applicant's Proposed Findings, add Paragraphs 807A, B, C and D following Paragraph 807:

807A. One topic of considerable interest regarding protective actions for schools was the adequacy of

communications with bus drivers, both to summon them to schools or other central locations for subsequent dispatch and to communicate during the time they are driving their routes. The Board believes that the presently proposed system of notifying the bus drivers via telephone, the Prompt Notification System, or by an individual flagging down a bus, is adequate for its purposes, particularly since these drivers will be instructed to be alert to respond to the Prompt Notification System signal if they have received no other notice. Although flagging down bus drivers may not be a perfect system, it is not "totally inefficient" as stated by ZAC/ZACK in its Proposed Findings at Paragraph 22. The technique has, in fact, been employed successfully in the past, as testified by other witnesses (Tr. 6070, 6156-7, 6400).

807B. While certain school officials have expressed some reservations concerning communications, the Board believes that this matter can be worked out during the development of the implementing procedures in which the school personnel play a major role and are in the chain of approval. Considering the planning effort, including arrangements for additional buses and the plans to use resources in a staged manner to evacuate schools closer to the Zimmer Station first, and taking into account the alternative protective actions available, the Board has concluded that these challenged areas of school emergency

planning are adequate even if not all bus drivers were contacted immediately.

807C. In its Proposed Findings at Paragraph 87, the Intervenor ZAC/ZACK averred that Campbell County School District "cannot permit the use" of alternative forms of transportation for students other than Campbell County school buses. This proposed finding is not consistent with the record. The witness, Mr. Sell, acknowledged that while he had basic responsibility under Kentucky law, he could, in fact, authorize alternative forms of transportation for students on his own responsibility. In fact, he admitted that he had previously authorized the transportation of children in vehicles other than Campbell County school buses. Mr. Sell also admitted that he had made no inquiries about liability insurance for TANK buses. He conceded having no knowledge as to his authority in the event the Governor declared a state of emergency (Tr. 6378-83). TANK buses and other forms of alternative transportation are, in fact, available as testified to by the State and county witnesses (Tr. 6068-9, 6188-9, 6209-10).

807D. Intervenor ZAC/ZACK's Proposed Findings at Paragraph 89, asserting that the Stone & Webster planners have no knowledge of local conditions, was based solely upon the testimony of Mr. Sell. In fact, at the time he testified Mr. Sell had never met with the Stone & Webster employees to work on the plan (Tr. 6398). The Board finds that the Stone & Webster planners, as evidenced by the

testimony of Mr. Weiss throughout this phase of the hearing, demonstrated a sound knowledge of the local conditions, e.g., Tr. 6679-6722.

Implementation of an Emergency Plan
by Standard Operating Procedures

On page 150 of Applicants' Proposed Findings, add Paragraphs 823A and B following Paragraph 823:

823A. In Proposed Findings 11-16, the City of Mentor argues that the radiological emergency plans for the State of Kentucky cannot be implemented as they now stand and that these plans do not provide that adequate protective measures can and will be taken in the event of a radiological emergency. Initially, this proposed finding is contrary to the testimony of General Buntin, who is charged with implementation of the Kentucky radiological emergency plans and who stated that the plan was capable of being implemented even at the present time (see Paragraph 181, supra).

823B. The apparent basis for the City of Mentor's argument is limited to the proposition that the standard operating procedures have not all been completed at this time. It is clear to us from the evidence of record that such procedures are now in various stages of development and will be completed prior to the issuance of an operating license. The Board has assured itself that the radiological emergency plans in the areas challenged are capable of being implemented and that there has been no demonstration that standard operating procedures cannot be developed in

accordance with the emergency plans. The Board's course of action in leaving such matters to resolution by the Staff and FEMA as discussed above is consistent with the practice followed by other Licensing Boards, e.g., Pennsylvania Power and Light Company (Susquehanna Steam Generating Station, Units 1 and 2), Docket Nos. 50-387-OL and 50-388-OL, "Initial Decision" (April 12, 1982) (slip op. at 118).

Prompt Notification System

On page 153 of Applicants' Proposed Findings, add Paragraphs 837A, B, C and D following Paragraph 837:

837A. The City of Mentor asserts in its Proposed Findings 22-24 related to Contention 36(I) that NUREG-0654 requires that the Prompt Notification System for the Zimmer Station have a backup power supply. For this proposition, the City of Mentor cites NUREG-0654, Appendix 3, page 3-6, which states that "[t]he system should be able to function notwithstanding adverse environmental conditions, such as flood and power outages." This sentence is taken completely out of context. On page 3-5, it is clear that the "system" referenced in this sentence is the Incident Alert Notification relating to "communication between the nuclear power facility and government authorities (Federal, State and Local)." While there is substantial discussion in a separate subsection, NUREG-0654, Appendix 3 at 3-7 et seq., regarding sirens, there is no indication that such sirens must have a backup power supply. The Board has already so indicated (Tr. 7844).

837B. In any event, as previously discussed, the siren system for the Zimmer Station will have backup to the normal power supply for all functions. The very testimony cited by the City of Mentor (Tr. 7840) for the proposition that "Kentucky state and county radiological emergency plans do not provide for any backup power supply for the prompt notification system" (City of Mentor Proposed Finding 23) in fact states that there will be battery backup to the siren system being installed.

837C. The City of Mentor notes in its Proposed Finding 21 that the details of the testing procedure for sirens have not yet been generically completed and thus the regional representative of FEMA could not elaborate on his role in siren testing. The Board is satisfied that the criteria contained in NUREG-0654 for the Prompt Notification System for the Zimmer Station have been met; certainly, the City of Mentor points to no probative evidence to the contrary. The Board is also satisfied that the system testing will take place in accordance with generically developed criteria. The Board believes that this element is properly left to the Staff and FEMA for resolution.

837D. The City of Mentor asserts in Proposed Finding 25 that because the installation and testing of the Prompt Notification System has yet to be completed, the Board cannot find that the system meets the requirements of NUREG-0654. The Board believes that, as discussed above, the record with regard to the design and installation of the

Prompt Notification System is sufficiently complete such that the assertions contained in Contention 36(I) of the City of Mentor have been shown to be without merit. The Board finds it appropriate to leave the final testing to the Applicants and FEMA.

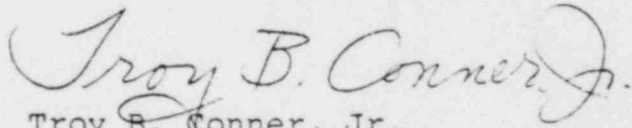
Conclusions

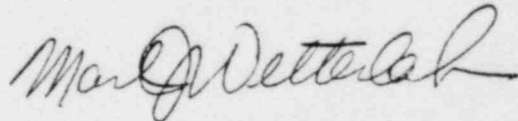
On page 156, add Paragraph 842A following Paragraph 842:

842A. ZAC/ZACK's proposed conclusions of law and proposed order, Paragraphs 143-147, and the City of Mentor's proposed conclusions of law, Paragraphs 32-39, are rejected as contrary to the evidence for the reasons set forth in detail above.

Respectfully submitted,

CONNER & WETTERHAHN, P.C.


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April 30, 1982

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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CERTIFICATE OF SERVICE

I hereby certify that copies of "Applicants' Reply Findings Relating to Emergency Planning Issues" dated April 30, 1982 in the captioned matter, have been served upon the following by deposit in the United States mail this 30th day of April, 1982:

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